

No. 9/5/84-6 Lab./9319.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Associated Industries, 22-B, Industrial Township, Faridabad.

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA  
FARIDABAD

Reference No. 141/1982

*Between*

SHRI SHIV DASS, WORKMAN AND THE MANAGEMENT OF M/S ASSOCIATED/INDUSTRIES,  
22-B, INDUSTRIAL TOWNSHIP, FARIDABAD

*Present.*—

Shri R. L. Sharma, for the workman.

Shri Pardip Sharma, for the management.

#### AWARD

In exercise of powers conferred by clause (d) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Shiv Dass, workman and the management of M/s. Associated Industries, 22-B, Industrial Township, Faridabad, to this Tribunal, for adjudication :—

Whether the termination of service of Shri Shiv Dass was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. The demand notice dated 15th February, 1982 was treated as claim statement on the request of the workman dated 7th June, 1982. In this demand notice, it was alleged that the claimant was an old employee of the respondent and was working since 1966 as a Tankman and was getting Rs. 260 per month as wages. It was further alleged that his services were illegally terminated and was not allowed to join duty with effect from 15th February, 1982 and as such he was entitled to reinstatement with full back wages.

3. The respondent in their written statement dated 26th July, 1982 pleaded that claimant never remained employed with them from 1966 to 15th February, 1982 but he worked with them from January, 1973 to July, 1975 and was getting Rs. 120 per month. It was further pleaded that the workman also filed an application under section 33-C(2) of the Industrial Disputes Act, 1947 before the Labour Court, Faridabad, and he took the plea in the rejoinder that he was employed with the respondent from 1966 to 1980 and was again employed up to 15th February, 1982 which application was made to harass the respondent and that the arguments had already been heard in the said case.

4. The claimant in his rejoinder dated 4th August, 1982 reiterated the pleas taken in the demand notice and further asserted that he had claimed bonus for the years 1966 to 1980 while the bonus for the year 1980-81 has been paid to the workman and that on account of that grudge, the claimant had been turned out by the respondent from the factory.

5. On the pleadings of the parties, the following issues are framed on 4th August, 1982 :—

(1) Whether the workman was in the employment of the management? OPM

(2) Whether the termination of service of Shri Shiv Dass was justified and in order? If not, to what relief is he entitled? OPM.

6. It may be mentioned that the claimant has examined two witnesses and document Ex. W-1, has been tendered into evidence while the management examined one witness and document, Ex. M-1, has been tendered into evidence. After going through the entire evidence and hearing both the representatives my findings on the above issues are as under :—

*Issue No. 1*

7. Shri Shiv Dass claimant appeared as WW-1 and stated that he was employed in the respondent factory in the year 1966 as Tankman and was getting Rs. 260 per month and that Shri Joginder Singh Incharge, Shri Kanihya Lal Cashier, Shri Vijay Kumar and Sharif used to work at that time. He further stated that he was turned out by the respondent in March, 1982 and that Shri Bhola Ram, Shri Vijay Kumar and Sharif were still working in that factory. He further stated that he had worked continuously in that factory and that no appointment or attendance card was given to him. Shri Bhiwani Bhikh WW-2 stated that he was employed by the respondent in 1980 and was working there. He further stated that he knew the claimant who used to work in that factory but was turned out in the year 1982. He then stated that the claimant and two other persons had demanded bonus, due to which he had been turned by the management. Ex. W-1 is the copy of the photograph and the claimant has deposed that he was standing at point 'X' in that photograph which was taken in the year 1970.

8. The management has examined MW-1 Shri Manprit Singh, Manager of the respondent, who appeared on 30th September, 1982 and stated that the claimant remained in their employment from January, 1973 to July 1975 and that he left the services of the respondent in August, 1975. He further stated that the name of the claimant did not appear in their register since August, 1975 and that his name also did not appear in the register for the year 1966. He again appeared on 28th June, 1984 and stated that he had brought the attendance register since 1981 and that Shri Bhawani Bhikh had not worked in their factory during this period. Ex. M-1 is the copy of the rejoinder submitted by the claimant before the Labour Court, Faridabad on 25th March, 1982 in which it was mentioned that the claimant had worked during the year 1966 to 1980 and had worked up to 15th February, 1982, but no bonus was given to him.

9. The claimant while appearing as WW-1 has deposed that he worked in the respondent factory from 1966 to February, 1982, when he was turned out and was not given any job. He specifically mentioned the names of other workmen who are working in this factory in the year 1966 and stated that 3 workmen, namely, Shri Bhola Ram, Shri Vijay Kumar and Shri Sharif were working even now. He admitted the contents of the rejoinder Ex. M-1 in cross-examination, in which it was recited that he worked with the respondent during the years 1966 to 1980 and has also worked up to 15th February, 1982 but no bonus was paid to him. In the written statement, the respondent took the plea that the claimant made a false application in the Labour Court in which he had mentioned that he was employed with the respondent from 1966 and that arguments had already been heard in that case but judgement had yet to be announced. It is not the case of the management that the claimant never remained in their employment. The claimant clearly stated that he was employed in the year 1966 and was turned out on 15th February, 1982. He took the similar plea in proceedings in the Labour Court,—vide Ex. M-1. The management admitted that the argument in the case pending in the Labour Court had been heard. If any findings in favour of the management had been given by the Labour Court, the management must have produced the copy of the said judgement in those proceedings. The testimony of the claimant has been corroborated by WW-2 Shri Bhawani Bhikh, who stated that when he joined the service in the respondent factory in the year 1980, the claimant was working in that factory and was turned out in February, 1982 because the claimant had claimed bonus from the respondent. Shri Manprit Singh, Manager (MW1), however, stated that the name of Shri Bhawani Bhikh was not entered in their register. Shri Manprit Singh appeared on 28th June, 1984 and stated that his father and uncle were partner in this factory. On 13th October, 1982 when he appeared for the first time, he stated in cross-examination that the records were being maintained by the Time keeper who had been employed recently. This circumstance shows that the record prior to 30th March, 1982 was not being kept by any regular official. Moreover, the said time-keeper has not been produced in the witness-box. Under these circumstances, there is force in the argument raised by the representative of the workman that the record brought by MW-1 was not an authentic one because no official has been examined by the respondent, who used to prepare the record during the years 1966 to 1982 and that MW-1, Shri Manprit Singh was not an independent witness as his father and uncle were the partners in the respondent factory. Further, Shri Manprit Singh started working in this factory since 1979 as stated by him in cross examination and was aged 20 years at that time. Consequently he had no personal knowledge regarding the state of affairs in this factory in the year 1966 because he was hardly 7 years old at that time. Moreover the testimony of Shri Manprit (MW-1) is to the effect that the claimant worked in the respondent factory from January, 1973 to July, 1975 only cannot be accepted because if the claimant had actually worked during this period and had left the factory in August, 1975, some documents must have been produced by the management to show that the claimant was given any amount as compensation etc. or that any letter was written to him to join duty if he had absented himself in August, 1975 without permission. Consequently there is no evidence that the services of the claimant were terminated by the respondent in August, 1975 and had paid any compensation to the claimant. The respondent did not issue any appointment letter to the claimant nor attendance card was given to him and as such he could not produce any documentary evidence in this respect. He served the respondent for a sufficient long time, i.e. from 1966 to 15th February, 1982 and he demanded the bonus for the period 1966 to 1980 and started proceedings in the Labour Court as well reiterating therein that he was in service since 1966. It is true that the onus to prove this issue has been placed on the workman but it is well settled that question of onus does not assume any significance when both the parties have led evidence. The entire record was in the possession of the respondent but the record on the basis of which evidence has been led by the respondent does not appear to be an authentic record for the reasons given above. The representative of the management argued that on 30th October, 1984, the claimant stated in cross-examination that it was correct that after 1974 he was not employed in the respondent factory and the said statement showed that the claimant was not in service after 1974. The argument is without any force because the respondent have also admitted that the claimant was in service up to July, 1975. The claimant alleged that he was employed in 1966. In that context, he replied that he was not employed after 1974. By this reply he did not mean that he had left the service in 1974 because his plea in the demand notice as well as in the witness-box was that he remained in the employment of the management from 1966 to 15th February, 1982. Under all these circumstances, it is held that the claimant was in the employment of the management from 1966 to 15th February, 1982. The issue is decided accordingly in favour of the claimant.

#### Issue No. 2

10. While discussing issue No. 1, it has been found that the provisions of section 25-F of the Industrial Disputes Act, 1947 were not complied with because no compensation etc. was paid to the claimant and as such the termination of service of the claimant is neither justified nor proper and he is, therefore, entitled to reinstatement. It may be mentioned that the claimant while appearing as WW-1 on 30th October, 1984 admitted that he was working as Moulder in N.J.T. No. 1 for the last one month. In his earlier statement dated 22nd November, 1982, the claimant stated that he was



unemployed. Consequently, the claimant was in service since one month prior to 30th October, 1984. In other words, he got employment in September, 1984 and as such he is not entitled to back wages since September, 1984 but can get back wages from 15th February, 1982 to 31st August, 1984.

In view of the foregoing discussion, it is held that the termination of service of the claimant was neither justified nor proper on 15th February, 1982 and as such he is entitled to reinstatement with full back wages for the period 15th February, 1982 to 31st August, 1984. The award is passed accordingly.

Dated the 18th December, 1984.

R. N. BATRA,

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.

Endorsement, No. 1602, dated 18th December, 1984.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.

No. 9/5/84-6Lab/9320.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of Executive Engineer, S.Y.L. Mechanical Division No. 2, Ambala City.

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 325/1981

between

SHRI MAHI PAL, WORKMAN AND THE MANAGEMENT OF EXECUTIVE ENGINEER, S.Y.L.  
MECH. DIVISION NO. 2, AMBALA CITY

Present.—

Shri Rajeshwar Nath, for the workman.

Shri Lal Singh, S.D.O., for the management.

#### AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Mahipal, workman and the management of Executive Engineer, S.Y.L. Mech. Division No. 2, Ambala City, to this Tribunal, for adjudication:—

Whether the termination of service/dismissal of Shri Mahipal was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. Demand notice dated 5th March, 1981 was treated as claim statement on the request of the workman, in which it was alleged that the claimant remained employed as Truck Driver from 1st February, 1978 to 5th January, 1981 in Sub-Division Mechanical No. 3 S.Y.L., Ambala City but his services were terminated on 5th January, 1981 illegally and as such was entitled to reinstatement with full back wages.

3. The respondent in his written statement dated 17th December, 1981, pleaded that neither the S.Y.L. Wing of the Irrigation Department was an industry nor the claimant was a workman and that the services of the claimant were terminated on 28th February, 1981 due to completion of the work by the Executive Engineer, S.Y.L., Mechanical Division No. 2 after serving on him a 30 day's notice on 26th September, 1980.

4. On the pleadings of the parties, the following issues were framed on 15th February, 1982:—

(1) Whether the respondent is not an industry? OPM

- (2) Whether the termination of service of Shri Mahipal was justified and in order ? If not, to what relief is he entitled ? OPM

#### Issue No. 1

5. Arguments were addressed by both the parties on the last date of hearing and my finding on the same is as under :—

6. It was argued that Irrigation Department was not an industry and as such the present dispute was not maintainable under the provisions of the Industrial Disputes Act, 1947. Reliance for this submission has been placed on the decision of Full Bench of the Hon'ble Punjab and Haryana High Court in *Om Parkash versus The Executive Engineer, S.Y.L., etc.* C.P.W. No. 3746 of 1983 decided on 15th March, 1984 in which it was held that Irrigation Department was not an industry. In Civil Writ Petition No. 1010/1980, *State of Haryana through Executive Engineer, S.Y.L. Mechanical, Division No. II, Ambala versus Presiding Officer, Labour Court, Faridabad* and others decided on 19th September, 1984, it was held that Irrigation Department was not an industry. Consequently, it is held that Irrigation Department was not an industry and the provisions of the Industrial Disputes Act, 1947 are not applicable to the present dispute because the claimant is an employees of the Irrigation Department. The issue is decided accordingly in favour of the management.

7. In view of the above findings on issue No. 1, issue No. 2 does not arise for decision. Consequently, it is held that the provisions of the Industrial Disputes Act, 1947, are not attracted to the facts of the present case and as such the reference is not competent. The award is passed accordingly.

Dated the 18th December, 1984.

R. N. BATRA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endorsement No. 1603, dated 18th December, 1984.

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/5/84-6Lab/9321.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Executive Engineer, S.Y.L. Mech. Division No. 2, Ambala City.

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 324/1981

SHRI PARSHOTAM LAL, WORKMAN AND THE MANAGEMENT OF M/S EXECUTIVE ENGINEER,  
S.Y.L. MECH. DIVISION NO. 2, AMBALA CITY

Present.—

Shri Rajeshwar Nath, for the workman.

Shri Lal Singh, S.D.O., for the management.

#### AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Parshotam Lal, workman and the management of M/s Executive Engineer, S.Y.L. Mech. Division No. 2, Ambala City, to this Tribunal, for adjudication :—

Whether the termination of service of Shri Parshotam Lal was justified and in order ? If not, to what relief is he entitled ?



2. Notices were issued to both the parties. Demand notice dated 5th March, 1981 was treated as claim statement on the request of the workman, in which it was alleged that the claimant remained employed as Truck Driver from 15th January, 1977 to 28th February, 1981 in Sub-Division Mechanical No. 3, S.Y.L., Ambala City but his services were terminated on 28th February, 1981 illegally and as such was entitled to reinstatement with full back wages.

3. The respondent in his written statement dated 17th December, 1981, pleaded that neither the S.Y.L. Wing of the Irrigation Department was an industry nor the claimant was a workman and that the services of the claimant were terminated on 28th February, 1981 due to completion of the work by the Executive Engineer, S.Y.L., Mechanical Division No. 2 after serving on him a 30 days notice on 26th September, 1980.

4. \*On the pleadings of the parties, the following issues were framed on 15th February, 1982 :—

(1) whether the respondent is not an industry ? OPM

(2) whether the termination of services of Shri Parshotam was justified and in order ? If not, to what relief is he entitled ? OPM.

Issue No. 1 :

5. Arguments were addressed by both the parties on the last date of hearing and my findings on the same is as under :—

It was argued that Irrigation Department was not an industry and as such the present dispute was not maintainable under the provisions of the Industrial Disputes Act, 1947. Reliance for the submission has been placed on the decision of Full Bench of the Hon'ble Punjab and Haryana High Court in *Om Parkash versus The Executive Engineers S.Y.L. etc.* C.W.P. No. 3746 of 1983 decided on 15th March, 1984 in which it was held that Irrigation Department was not an industry. In Civil Writ Petition No. 1010/1980, State of Haryana through Executive Engineer S.Y.L., Mechanical, Mechanical Division No. II, Ambala *versus* Presiding Officer, Labour Court, Faridabad and others, decided on 19th September, 1984, it was held that Irrigation Department was not an industry. Consequently it is held that the Irrigation Department is not an industry and the provisions of the Industrial Disputes Act were not applicable to the present dispute because the claimant is a employee of the Irrigation Department. The issue is decided accordingly in favour of the Management.

6. In view of the above findings on issue No. 1, issue No. 2 does not arise for decision. Consequently, it is held that the provisions of the Industrial Disputes Act, 1947 are not attracted to the facts of the present case and as such, the reference is not competent. The award is passed accordingly.

Dated the 18th December, 1984.

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endorsement No. 1604, dated 18th December, 1984

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/5/84-6Lab/9328.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Paramount Rubber Industries, 58-B, N.I.T., Faridabad.

BEFORE SHRI R.N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No.- 601/1983

between

SHRI PASO CHAUDHARY, WORKMAN AND THE MANAGEMENT OF M/S PARAMOUNT  
RUBBER INDUSTRIES, 58-B, N.I.T., FARIDABAD

Present :—

Shri M.K. Bhandari, for the workman.  
None, for the management.

## AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Paso Chaudhary, Workman and the Management of M/s. Paramount Rubber Industries, 58-B, N.I.T., Faridabad, to its Tribunal, for adjudication :—

Whether the termination of service of Shri Paso Chaudhary was justified and in order ? If not, to what relief is he entitled ?

2. It may be mentioned that notices were issued to both the parties. The workman in his claim statement, dated 4th December, 1984, alleged that he was appointed on 10th February, 1979 by the respondent and was drawing Rs. 375 per month. It was then alleged that he proceeded on leave from 1st April, 1983 to 24th April, 1983, but due to his illness, he could not report for duty and had to remain on medical leave from 24th April, 1983 to 13th June, 1983. It was further alleged that he sent medical certificate alongwith application for leave to the respondent by registered post. It was then alleged that when the claimant reported for duty alongwith fitness certificate on 16th June, 1983, the factory was closed because the employer had taken the workers religious places and thus the factory remained closed till 20th June, 1983 and that when the claimant reported for duty on 21st June, 1983, he was not allowed to join duty. It was further alleged that he wrote a letter to the respondent on 25th June, 1983 and complained to the Labour Inspector on 30th June, 1983, but he was not taken back on duty. It was alleged that the termination of service of the claimant was illegal and he was entitled to reinstatement with full back wages.

3. It may be mentioned that none appeared on behalf of the Management in spite of service and as such *ex parte* proceedings were ordered against the management on 19th June, 1984. Shri Basso Chaudhary claimant has appeared as WW-1 and repeated the allegations made in the claim statement and proved the documents Ex. W-1 to W-6 in support of this case. Ex. W-1 is the copy of the letter dated 16th April, 1983 by which the claimant informed the Management that he was ill and was sending his medical certificate alongwith the said letter. Ex. W-2 is the postal receipt. Ex. W-3 is the fitness certificate to the effect that the claimant remained under treatment of the Doctor from 24th April, 1983 to 13th June, 1983. Ex. W-4 is the letter sent by the claimant to the Management asking to the Management to take him on duty and that he was not allowed to join duty on 21st June, 1983. Ex. W-5 is the postal receipt regarding sending that letter. Ex. W-6 is the copy of the application dated 30th June, 1983 sent by the claimant to the Labour Inspector, Faridabad, complaining that he was not being allowed to join duty by the respondent even though he reported himself for duty on 21st June, 1983. Oral as well documentary evidence, therefore, goes to show that the claimant proceeded on leave upto 24th April, 1983 and he sent letter on 16th April, 1983 alongwith medical certificate to the effect that he was ill and further that he reported for duty on 21st June, 1983 alongwith fitness certificate but he was not allowed to join duty and the complaint made by him to the management on 25th June, 1983, had no effect and further that the claimant reported the matter to the Labour Inspector on 30th June, 1983. The claimant had, therefore, explained regarding his illness and failure on the part of the management to take him on duty. The management has not adduced any evidence in rebuttal because *ex parte* proceedings were ordered against them as they did not attend the Court in spite of service. Since the provisions of Section 25-F of the Industrial Disputes Act, 1947 have not been complied with by the Management, as such the termination of service of the claimant was neither justified nor in order. The claimant is, therefore, entitled to reinstatement with full back wages. The award is passed accordingly.

Dated the 13th December, 1984.

R.N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endorsement No. 1599, dated the 14th December, 1984

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

R.N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/5/84-6Lab/9383.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of Executive Engineer, Operation Division, H.S.E.B., Sirsa.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK  
Reference No. 205 of 1980

between

SHRI MAHARAJ DIN, WORKMAN AND THE MANAGEMENT OF EXECUTIVE ENGINEER,  
OPERATION DIVISION, HARYANA STATE ELECTRICITY BOARD, SIRSA

Present :—

■ Shri H.S. Smaug, A.R. for the Workman.  
Shri Jaspal Singh, Law Officer for the respondent.



## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Maharaj Din and the management of Executive Engineer, Operation Division, Haryana State Electricity Board, Sirsa, to this Court, for adjudication,—vide Labour Department Gazette Notification No. ID/HSR/45-80/50545, dated 22nd September, 1980 :—

Whether the termination of services of Shri Maharaj Din was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The workman alleged that he was promoted as ALM w.e.f. 2nd January, 1980, though the said order of promotion was cancelled on 7th March, 1980 and that the said order contravenes the provisions of the Industrial Disputes Act, 1947.

3. A detailed reply was filed by the respondent in which the preliminary objections taken are that the reference is bad in law, because the dispute does not fall within the ambit of section 2-A of the Industrial Disputes Act, 1947. On merits, it is alleged that the workman was employed as workcharge T/Mate and that he is still working in the same capacity and that he was never promoted as ALM as alleged and that one Shri Maharaj Din, son of Shri Murari (born on 26th February, 1954) was offered the post of ALM on temporary basis,—vide order dated 2nd January, 1980 who was required to join his duties up to 17th January, 1980 and since the said Maharaj Din did not join his duties within the stipulated period, the offer of employment as cancelled,—vide order dated 7th March, 1980. So, it is alleged that the present workman (born on 26th February, 1952) was never appointed or promoted as ALM and as such the question of terminating his services does not arise.

4. In the replication filed by the workman, he has controverted the pleas taken by the respondent.

5. On the pleadings of the parties, the following issues were settled for decision on 7th August, 1981 :—

(1) Whether the dispute raised by the workman is not an industrial dispute coverable under section 2-A of the Industrial Disputes Act? If so, to what effect?

(2) Whether the termination of services of Shri Maharaj Din was justified and in order? If not, to what relief is he entitled?

6. The management examined MW-1 Shri Dhani Ram AFM and MW-2 Shri Madan Mohan, Junior Engineer, MW-3 is Shri Joginder Singh, A.D.C., H.S.E.B., Sirsa. The workman appeared as his own witness as WW-1.

7. I have heard the learned Authorised Representatives of the parties and have gone through the evidence on record. I need not dispose of the issues framed in this case, because this reference can be answered on other grounds. The terms of reference are as under :—

“Whether the termination of services of Shri Maharaj Din was justified and in order? If so, to what relief is he entitled?”

8. The terms of reference in this case are absolutely alien to the controversy before the Court. Firstly the services of the workman were never terminated by the respondent. The workman was employed as workcharge T/Mate and he continued to be so till the date a reply was filed by the respondent, though, later on he was promoted as ALM as is evident from the statement of MW-3 Shri Joginder Singh that the workman was promoted as ALM w.e.f. 27th May, 1982—vide letter EX. MW-3/A and he actually joined his duties on 17th July, 1982. The law is settled that the Labour Court/Industrial Tribunal cannot travel beyond the terms of reference and in that behalf a reference can be made to 1984 LLN (II) 197 Sita Ram Vishnu Shirodhkar and Administrator Government of Goa and others. The real dispute between the parties is as to whether the workman was ever promoted/appointed as ALM by the respondent,—vide letter of appointment Ex. R-1. The father's name of the present workman is Shri Mudai whereas offer of appointment as ALM was made to one Shri Maharaj Din, son of Shri Murari. The date of birth of these two persons also differs. So, now this Court is seized of a controversy, which is absolutely beyond the scope of the terms of reference and this Court cannot adjudicate upon the same without a pointed reference in that behalf from the competent authority. Further more the real controversy between the parties is also beyond the scope of section 2-A of the Industrial Disputes Act, 1947, under which the competent authority makes reference to the Labour Court for adjudication. Under these circumstances, there is no escape from the conclusion that this reference is bad in law and seems to have been made to this Court in a mechanical and perfunctory manner without appreciating the dispute between the parties. In view of these findings, I need not discuss the issues framed in this case, because the reference itself is bad in law. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 4th December, 1984.

B.P. JINDAL  
Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sirsa.

Endorsement No. 205/80/3833, dated the 20th December, 1984

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL  
Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sirsa.